

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

VANESSA A. QUINN, As Executrix of the
Estate of WILLIAM HUNT, JR., Deceased,

Plaintiff,
v.

DECISION AND ORDER
10-CV-258S

UNITED STATES OF AMERICA,

Defendant.

Presently before this Court is the Revised Petition of Plaintiff. This action arises out of an incident involving the injury of William Hunt, Jr. Because this action is brought on behalf of an estate, it cannot be settled without leave of this Court. See Local Rule 41(a)(2).

This Court has considered Plaintiff's application and the papers filed in support thereof, and finds that no hearing is required. This Court further finds that the proposed settlement is in the best interests of the estate. In so finding, this Court has considered (1) the circumstances giving rise to the claim, (2) the nature and extent of damages, (3) the terms of the proposed settlement and amount of attorneys' fees and other disbursements, (4) the circumstances of any other claims or settlements arising out of this same occurrence, and (5) the plaintiff's statement of why she believes this settlement is in the best interests of the estate. See Local Rule 41(a)(2)(A)(I)-(V). Plaintiffs' application will therefore be granted and this settlement approved.

This Court has also considered Defendant's affidavit and concurs with its request that this case not be "transferred" or referred to the Erie County Surrogate's Court, but rather that this Court will direct the estate representative to apply to that court for an

order of distribution of the net proceeds of the settlement pursuant to § 5-4.4 of the New York Estates, Powers and Trusts Law.

IT HEREBY IS ORDERED, that the Revised Petition (Docket No. 29) is GRANTED.

FURTHER, that it is ORDERED that the settlement in the sum of \$7,800.00 with waiver of the Veterans Affairs Medical Center's lien for medical expenses in the sum of \$808.90 is APPROVED, this Court specifically finding that it is fair and reasonable and has been reached in good faith.

FURTHER, that it is ORDERED that the reimbursement from the settlement proceeds to the law firm of Lipsitz Green Scime Cambria LLP for disbursements incurred by that firm in the sum of \$3,817.50 is APPROVED.

FURTHER, that it is ORDERED that the payment of attorneys' fees to the law firm of Lipsitz Green Scime Cambria LLP, pursuant to the limits of the Federal Tort Claims Act, in the sum of \$995.62 is APPROVED.

FURTHER, that it is ORDERED that the payment of the net proceeds in the sum of \$2,986.88 be allocated 100% to the cause of action for pain and suffering is APPROVED.

FURTHER, that Plaintiff, as Executrix of the Estate of William Hunt, Jr., is DIRECTED to make application to the State of New York Surrogate's Court of Erie County for an Order of distribution of the net proceeds of the settlement pursuant to § 5-4.4 of the New York Estates, Powers and Trusts Law.

FURTHER, that the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: January 25, 2012
Buffalo, NY

/s/ William M. Skretny
WILLIAM M. SKRETNY
Chief Judge
United States District Court